

and safety of all diplomatic and consular missions and representatives officially present in territory under their jurisdiction, including practicable measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions and representatives;

5. *Calls upon* States to take all necessary measures at the national and international levels to prevent any acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives to international intergovernmental organizations and officials of such organizations, and, in accordance with national law and international treaties, to prosecute or extradite those who perpetrate such acts;

6. *Recommends* that States should co-operate closely through, *inter alia*, contacts between the diplomatic and consular missions and the receiving State, with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to exchange of information on the circumstances of all serious violations thereof;

7. *Calls upon* States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

8. *Calls upon* States, in cases where a dispute arises in connection with a violation of the principles and rules of international law concerning the inviolability of diplomatic and consular missions and representatives, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General;

9. *Requests*:

(a) All States to report to the Secretary-General as promptly as possible serious violations of the protection, security and safety of diplomatic and consular missions and representatives;

(b) The State in which the violation took place — and, to the extent applicable, the State where the alleged offender is present — to report as promptly as possible on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and on measures adopted with a view to preventing a repetition of such violations;

10. *Requests* the Secretary-General:

(a) To circulate to all States, upon receipt, the reports received by him pursuant to paragraph 9 above, unless the reporting State requests otherwise;

(b) When a serious violation has been reported pursuant to paragraph 9 (a) above, to draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 9 above;

11. *Requests* the Secretary-General to invite States to inform him of their views with respect to any measures needed to enhance the protection, security and safety of diplomatic and consular missions and representatives;

12. *Also requests* the Secretary-General to submit to the General Assembly at its forty-first session a report containing:

(a) Information on the state of ratification of, and accessions to, the instruments referred to in paragraph 7 above;

(b) The reports received and views expressed pursuant to paragraphs 9 and 11 above;

13. *Further requests* the Secretary-General to prepare and to circulate to all States, by 31 July 1986, a survey of the operation, since their establishment, of the reporting procedures provided for in paragraph 9 above, with a view, in particular, to the strengthening of those procedures;

14. *Invites* the Secretary-General to submit to the General Assembly at its forty-first session any views he may wish to express on the matters referred to in paragraphs 12 and 13 above;

15. *Decides* to include in the provisional agenda of its forty-first session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives: report of the Secretary-General".

*112th plenary meeting
11 December 1985*

40/74. Drafting of an international convention against the recruitment, use, financing and training of mercenaries

The General Assembly,

Bearing in mind the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples, enshrined in the Charter of the United Nations and developed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,²

Recalling its resolutions, particularly resolutions 2395 (XXIII) of 29 November 1968, 2465 (XXIII) of 20 December 1968, 2548 (XXIV) of 11 December 1969, 2708 (XXV) of 14 December 1970 and 3103 (XXVIII) of 12 December 1973, and its resolution 1514 (XV) of 14 December 1960, as well as Security Council resolutions 405 (1977) of 14 April 1977, 419 (1977) of 24 November 1977, 496 (1981) of 15 December 1981 and 507 (1982) of 28 May 1982, in which the United Nations denounced the practice of using mercenaries, in particular against developing countries and national liberation movements,

Recalling in particular its resolution 39/84 of 13 December 1984, by which it renewed the mandate of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries,

Having considered the report of the *Ad Hoc* Committee on its fifth session,⁴⁰

Recognizing that the activities of mercenaries are contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impede the process of self-determination of peoples struggling against colonialism, racism and *apartheid* and all forms of foreign domination,

Bearing in mind the pernicious impact that the activities of mercenaries have on international peace and security,

Considering that the progressive development and codification of the rules of international law on mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter,

⁴⁰ Official Records of the General Assembly, Fortieth Session, Supplement No. 43 (A/40/43).

Taking account of the fact that, although the *Ad Hoc* Committee has made some progress, it has not yet fulfilled its mandate,

Reaffirming the need for the elaboration, at the earliest possible date, of an international convention against the recruitment, use, financing and training of mercenaries,

1. Takes note of the report of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and the progress made by the *Ad Hoc* Committee, especially during its fifth session;
2. Decides to renew the mandate of the *Ad Hoc* Committee to enable it to continue its work on the drafting of an international convention against the recruitment, use, financing and training of mercenaries;
3. Requests the *Ad Hoc* Committee, in the fulfilment of its mandate, to use the draft articles contained in chapter V of its report,⁴⁰ entitled "Consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries" as a basis for future negotiation on the text of the proposed international convention;
4. Invites the *Ad Hoc* Committee to take into account the suggestions and proposals of Member States submitted to the Secretary-General on the subject and the views and comments expressed at the current session of the General Assembly;⁴¹
5. Decides that the *Ad Hoc* Committee shall accept the participation of observers of Member States, including participation in the meetings of its working groups;
6. Requests the Secretary-General to provide the *Ad Hoc* Committee with any assistance and facilities it may require for the performance of its work;
7. Decides that the *Ad Hoc* Committee shall hold its sixth session for four weeks, from 16 June to 11 July 1986;
8. Requests the *Ad Hoc* Committee to make every effort to complete its mandate at its sixth session and to submit a draft convention to the General Assembly at its forty-first session;
9. Decides to include in the provisional agenda of its forty-first session the item entitled "Report of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries".

*112th plenary meeting
11 December 1985*

40/75. Report of the International Law Commission

The General Assembly.

Having considered the report of the International Law Commission on the work of its thirty-seventh session,²⁴

Emphasizing the need for the progressive development of international law and its codification in order to make it a more effective means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations² and to give increasing importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics which might be submitted to the International Law Commission, and of enabling the Sixth Committee and the Commission further to enhance their contributions to the

progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the contemporary international community, may be suitable for progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

1. Takes note of the report of the International Law Commission on the work of its thirty-seventh session;
2. Expresses its appreciation to the International Law Commission for the work accomplished at that session;
3. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme, bearing in mind the clear desirability of achieving as much progress as possible in the preparation of draft articles on specific topics before the conclusion of the term of office of the present membership;
4. Expresses its satisfaction with the conclusions and intentions of the International Law Commission concerning its procedures and methods of work, as reflected in paragraphs 297 to 306 of its report;²⁴
5. Reaffirms its previous decisions concerning the increased role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the documentation of the International Law Commission;
6. Appeals to Governments and, as appropriate, to international organizations to respond as fully and expeditiously as possible to the requests of the International Law Commission for comments, observations and replies to questionnaires and for materials on topics in its programme of work;
7. Reaffirms its wish that the International Law Commission continue to enhance its co-operation with inter-governmental legal bodies whose work is of interest for the progressive development of international law and its codification;
8. Expresses the wish that seminars will continue to be held in conjunction with sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars and appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars;
9. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fortieth session of the General Assembly⁴² and to prepare and distribute a topical summary of the debate.

*112th plenary meeting
11 December 1985*

40/76. Preparation for the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

The General Assembly.

Recalling its resolution 37/112 of 16 December 1982, by which it decided that an international convention should be concluded on the basis of the draft articles on

⁴¹ *Ibid.*, Fortieth Session, Sixth Committee, 13th to 17th, 44th and 48th meetings.

⁴² *Ibid.*, Sixth Committee, 23rd to 36th, 46th and 47th meetings; and *ibid.*, Sixth Committee, Sessional Fascicle, corrigendum.